

REMARKS

Reconsideration is respectfully requested. To emphasize the patentable aspects of Applicant's invention, Applicant has characterized the parts that have been formed as a flexible boot or tube for a vehicle or industrial equipment. Support for this modification is throughout the specification in particular p. 1, l. 4; p. 4, ll. 20-26; p. 2, l. 26; p. 5, ll. 1-10.

To demonstrate the environment in which Applicant's invention is used, Applicant has attached herewith a page of the *Automotive News* of April, 2000 which shows a plastic boot that is utilized in a wheel steering system. The photograph is for illustrative purposes only. Basically, Applicant's invention has one portion of the boot or tube that may be attached to a cross-member and the other portion is attached to a strut generally thinner than the cross-member with the flexible corrugated portion in between. Due to high-speed molding techniques, Applicant is able to produce boots in sufficient volume such as for the vehicular industry.

To contrast what Applicant believes is representative of the prior art references that the Examiner has cited, Applicant has located on the internet some pipes that are utilized in civil engineering environments. The website is of hancor.com which discusses heavy duty, high density polyethylene pipe products. Hancor is the assignee of cited U.S. Patent No. 4,509,911 to Rosenbaum. Please note the size of the products that are generally available such as 20 feet in length on up to coils of 2,900

feet in length. Some boots for vehicular purposes may be only 12" or less. Note the picture on the left portion of the front page of the website indicates the civil engineering environmental use where the pipe acts as a duct underneath a road bed. This is substantially similar to the disclosure of drainage equipment that is discussed in the Maroschak U.S. Patent No. 3,859,025 in particular, col. 1, l. 32 and following and col. 4, l. 27 and following. Quite simply, the environment for usage of the boots and tubes in the present invention is substantially far afield from the molding technique utilized for the prior art. One working in the automotive and/or industrial field would not look to the field of civil engineering and its molding techniques to produce the sizable pipes for that industry where water and agricultural waste may flow therethrough. The fields are substantially far apart.

It is noted that a restriction requirement has been made with respect to claims 23-26 which are drawn to a molded product. Applicant believes there is but one invention. However, to simplify and advance prosecution, Applicant has cancelled claims 23-26 since they have been withdrawn from consideration. This is done without prejudice to Applicant filing continuing/divisional applications.

Page 3 of the Office Action has an objection as to the specification. Applicant has revised the Abstract.

In Para. 5 of the Office Action, claims 1, 4-5, 14, 17-18 and 21-22 are rejected

under 35 U.S.C. § 103 as being unpatentable over Maroschuk, the '025 patent, in view of Lupke U.S. Patent No. 5,429,398. This rejection is respectfully traversed.

Maroschuk does in fact discuss forming large tubular corrugated pipes that are used in civil engineering fields. It is to be noted that in particular from FIGS. 6, 7 and 8 that the pipes that are utilized in '025 patent require that they have a capability of being joined together. The obvious reasons here being that one in a civil environment would need to have the capability of the pipes being joined together to facilitate flow therethrough. Applicant, on the other hand, is not desirous of forming pipes that have the ability to bind together, but rather Applicant's devices are utilized to secure one portion of a vehicle or a piece of equipment to another portion and to facilitate the movement as may be necessary in the installation and/or operation of the vehicle or the equipment. Therefore, the flexibility is built in by virtue of the convoluted segments in between the end segments.

The Examiner recognizes that the primary reference, the '025 patent cannot stand alone, but requires the presence of the secondary reference Lupke, the '398 patent. It should be noted that there is no primary basis for combining the references and even if they are combined, the claimed invention is not taught. Note that FIG. 8, reference numeral 82 is a bell segment which is required to facilitate the Z segment to be inserted therein. Again, the '398 patent is concerned with joining the components together. Applicant's invention is diametrically opposed to that. Applicant's invention utilizes the segments individually and are not designed for civil engineering purposes

where fluid flows between the ends of the formed materials. The primary purpose of the '398 patent is to facilitate the forming or joining of the tubes and the bellowed portion. There is no process taught in either of the references independently or combined for forming a boot or tube for a vehicle or industrial equipment. The only mechanism for joining the components is to physically put them together as shown in Lupke '398, FIGS. 10-12. That is not how molded products are formed according to the claimed invention, in particular, one directed towards a flexible boot or tube for vehicle or industrial equipment. Fluids encountered in a civil environment field are not the types of materials that are designed for Applicant's flexible boot or tube for vehicle or industrial equipment. Again, bell configurations are required at the ends of the large civil engineering tubes shown in the references. The bellowed ends are required so that the tubes can be inserted one into the other or attached to another. The references do not teach the formation of configurations called for in the claims, especially the dependent claims. The combination of references teaches away from Applicant's invention because the combination requires the construction pipes to be physically attached. Applicant forms the final desired tube or boot in the molding process because that is the configuration desired by the customer. Civil engineers utilizing the products of the art join them in the field - not in the manufacturing process. The end uses are different, and therefore the manufacturing is different -- and not obvious under § 103.

Claims 3, 6, 11-12, 15 and 19-20 are rejected under 35 U.S.C. § 103 as being unpatentable over the two references discussed above and in further view of Rosenbaum, U.S. Patent No. 4,509,911. This rejection is respectfully traversed. The '025 and the '398 references have been discussed above.

It is respectfully submitted that the '911 reference, which is assigned to Hancor, is not related to the present invention, namely one that is directed to obtaining a boot or tube for a vehicle or industrial equipment. The '911 patent indicates in col. 1, l. 20 and following, that the corrugated pipe is used for industrial drainage and waste disposal systems or for agricultural purposes. The product that is obtained from the '911 patent is to be inserted into the ground as discussed in col. 1, l. 29 and following. The website discussed above shows in particular how the equipment is to be inserted. Clearly, the '911 patent does not pertain to a boot or tube that is utilized for a vehicle or industrial equipment just like the first two references discussed above.

The '911 patent again discusses the fact that the ends are formed of a substantial identical configuration so that they may be combined together, one unit at a time as shown in FIG. 1. In other words, some of the individual components are formed and they have the ability to be joined together by the tabs shown in FIGS. 2-4

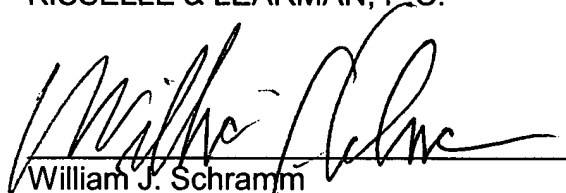
and 6 of the '911 patent. The units are snapped together which facilitates waste disposal systems, agricultural or industrial drainage systems. This is substantially far afield from a boot or tube that is used in a vehicle or industrial equipment. Applicant molds the desired product. The patentees mold a product and then attach them together. Applicant does not follow such molding process and his end use does not combine the molded products.

Applicant requests that if the case is not allowed that the Amendment be entered for purposes of appeal in order to simplify the issues.

In view of the above comments, it would appear the case is in condition for allowance, and a Notification of Allowance is respectfully requested.

Respectfully submitted,

REISING, ETHINGTON, BARNES,
KISSELLE & LEARMAN, P.C.

A handwritten signature in black ink, appearing to read 'William J. Schramm', is written over a horizontal line.

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Enclosures